

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Yon Kim

AGREED ORDER for

**Remedial Investigation/Feasibility Study
and Draft Cleanup Action Plan – Blaine
Mini Mart Site**

No. DE 7008

TO: Mr. Yon Kim
2530 Peace Portal Drive
Blaine, Washington 98230-9782

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Yon Kim under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires Yon Kim to Conduct a Remedial Investigation and Feasibility Study (RIFS) prepare a draft Cleanup Action Plan (CAP). Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. Yon Kim agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Yon Kim's responsibility under this Order. Yon Kim shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as Blaine Mini Mart and is generally located at 2530 Peace Portal Drive, Blaine, Washington. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. The Site is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to the State of Washington, Department of Ecology and Yon Kim

C. Potentially Liable Person (PLP): As used in the Agreed Order, PLP refers to Yon Kim. Ecology has additionally named Robert Drake and Robert Bell as PLP's for this Site, although they are not signatories to this Agreed Order.

D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits to this Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by Yon Kim:

- A. Yon Kim is the current owner/operator of a "facility", as defined in RCW 70.105D.020(5), located at 2530 Peace Portal Dr., Blaine, Washington. Yon Kim has been the owner of the Site since November 19, 1997, when he purchased ownership interest of this facility from Robert Drake. Yon Kim's ownership of this facility is established by records of the Whatcom County Tax Assessor's Office (Exhibit A).
- B. During a monitoring well installation and groundwater analysis conducted by Bek Purnell Engineering, Inc. in 1997, a release of hazardous substance was discovered. The groundwater results revealed concentrations of Gasoline, Benzene, Toluene, Ethyl Benzene, and Xylenes in exceedence of Method A cleanup levels.
- C. Later in 2005, a Phase 1 environmental site assessment conducted by Environmental Associates revealed higher levels of contamination than that discovered in the 1997 investigation. The 2005 environmental site assessment revealed soil concentrations of Gasoline, Benzene, and MTBE that exceed MTCA Method A cleanup levels. The environmental site assessment also revealed groundwater concentrations of Gasoline, BTEX, MTBE, diesel, and heavy oil range petroleum hydrocarbons that exceed MTCA Method A cleanup levels.

VI. ECOLOGY DETERMINATIONS

A. Yon Kim is an owner and an operator as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5).

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to Yon Kim dated April 6, 2009, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Yon Kim is a PLP under RCW 70.105D.040 and notified Yon Kim of this determination by letter dated June 11, 2009.

D. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that Yon Kim take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. **Scope of Work/Work Plan** – Yon Kim shall develop an RI/FS Work Plan (including draft, draft final, and final versions) that includes a scope of work to delineate and quantify (i.e., identify the levels of contamination) the contaminants of potential concern (COPCs) in all applicable media to the Site consistent with WAC 173-340-350. All work shall be completed utilizing professionals qualified to perform the tasks required. Note, all draft final documents for Ecology review may be submitted in redline strikeout or track changes format to facilitate the review. The RI/FS Work Plan will include the elements listed below.

- A site-specific health and safety plan (HASP) and a sampling and analysis plan (SAP), which includes quality assurance/quality control requirements, will be included in the RI/FS Work Plan. These plans shall conform to the requirements specified in WAC 173-340-810 and 173-340-820, respectively.
- The RI/FS Work Plan shall be developed meeting the requirements of WAC 173-340 and should include the sections listed below.
 - **Site Background And Setting** – This section will include detailed descriptions of the following: (1) the property and site operational history (including current and previous ownership), (2) previous investigations, (3) historical sources and releases of contamination (include a review of historical photos and Sanborn Maps), (4) current site conditions (including descriptions of surface features, geology, soil and the vadose zone, hydrogeology, and meteorology), and (5) current and future land and water use (including descriptions of human populations. And all other applicable information of the Site consistent with WAC 173-340-350.
 - **Initial Evaluation** – The initial evaluation will consist of the development of a conceptual site model (CSM), identification of preliminary cleanup levels, and an evaluation of the existing analytical data.
 - **CSM** – The CSM should describe release mechanisms from the potential primary sources of hazardous substances to secondary and tertiary sources, the exposure media and routes, and the potential human and ecological receptors. The CSM should reflect both current conditions and possible future development in assessing exposure pathways.
 - **Preliminary Cleanup Levels** – Based on the CSM, identify appropriate preliminary cleanup levels (e.g., levels established under MTCA [see WAC 173-340-700 through 173-340-760], or applicable state and federal laws)

under a residential (unrestricted) land use scenario. Note that the cleanup levels must consider all applicable pathways including direct contact (including inhalation), media transfer pathways (e.g., leaching to groundwater), and exposure to terrestrial ecological receptors.

- **Evaluation of Existing Data** – The existing analytical data should be plotted (as accurately as possible) on both historical and current aerial photographs using georeferencing techniques. Review the sample locations with respect to identified sources and areas where suspected releases (e.g., outfalls, spills, dumping, leaks, etc.) have occurred. All of the existing analytical data collected at the Site should be evaluated in terms of data usability and screened against the most protective preliminary cleanup levels identified under an unrestricted land use scenario. Analytical methods used to evaluate the effectiveness of a cleanup action shall comply with the requirements in WAC 173-340-830. Both non-detect and detected data should be included in the screening. Identify sample points containing exceedances on a map and also discuss the adequateness of the reporting limits in terms of achieving the preliminary cleanup levels. Chemicals exceeding the preliminary cleanup levels should be identified as COPCs.
- **RI Approach** – Based on the background information gathered, and the evaluation of existing data, discuss by media (i.e., soil and groundwater) the data required to complete an RI for the Site. The RI approach should be consistent with WAC 173-340-350 and include any data needed to help identify habitat restoration opportunities. Identify data gaps (e.g., establishment of “natural” background levels for metals according to WAC 173-340-709, characterization of on-site groundwater, etc.) and the overall approach for conducting the RI. The Sampling and Analysis Plan will provide

the details on numbers and locations of samples for each media and the analytical requirements.

The RI field investigation may be conducted in two phases if a second phase is needed. The first phase (and possibly the only phase) of the investigation will be designed to identify the full nature and extent of contaminants in upland areas. Both soil and groundwater will be evaluated. Yon Kim shall provide Ecology with the results of the Phase 1 investigation so that a determination can be made with regard to whether a Phase 2 investigation is required to define the full nature and extent of contamination. The information provided to Ecology should describe the analytical results of the Phase 1 field activities including the identification of COPCs, the affected media, preliminary cleanup levels, the extent of contamination (plotted on maps), and any data gaps that need to be filled to define the nature and extent of contamination. A Phase 2 field investigation (if necessary based on Phase 1 results) will be conducted to further define the nature and extent of contamination based on findings during Phase 1.

- **FS Approach** – This section should provide an overview of the methods that will be used in conducting the FS for the Blaine Mini Mart Site. The FS approach should be consistent with WAC 173-340-350 and should consist of the following sections:
 - Establishment of Preliminary Cleanup Levels.
 - Delineation of Media Requiring Remedial Action.
 - Development of Remedial Action Objectives.
 - Applicable or Relevant and Appropriate Requirements.
 - Screening of Cleanup Alternatives.

- Evaluation of Cleanup Alternatives.
- Evaluation of Habitat Restoration Alternatives¹.

- **Schedule and Reporting** – This section should contain the schedule and reporting requirements for the RI/FS project.

B. **RI/FS Report** – A draft, draft final, and final RI/FS report meeting the requirements of WAC 173-340-350 shall be prepared presenting the results of a remedial investigation regarding the full nature and extent of contamination and provides potential alternatives and a preferred alternative for the cleanup of the contamination present at and restoration of the Site. Also the alternatives evaluation and the preferred cleanup alternative must meet the requirements of WAC 173-340-360.

C. **Cleanup Action Plan (CAP)** – Upon the approval of the final RI/FS report, Yon Kim shall prepare a draft CAP in accordance with WAC 173-340-380 that provides a proposed cleanup action to address the contamination present on the Site. The CAP shall include a general description of the proposed cleanup action, results of any remedial technology pilot studies, cleanup standards from the RI/FS report and rationale regarding their selection, a schedule for implementation, descriptions of any institutional controls proposed, and a summary of applicable, local, state and federal laws pertinent to the proposed cleanup action.

D. **Schedules** – Yon Kim shall perform the actions required by this Order according to the following schedule:

- **Completion of this Agreed Order** -- The Department of Ecology allows 60 days for the negotiation of this Agreed Order. Fifteen days after these negotiations have finished, this Agreed Order will go out to a 30 day public comment period. After this Public comment period, Ecology shall take 15 days to consolidate and respond

¹ The Site is being overseen by Ecology and work is being done in an expedited manner under the Governor's Puget Sound Initiative. The Initiative focuses on cleaning up contamination as well as restoring Puget Sound. Ecology recognizes that site cleanups can be designed and implemented in a manner that improves habitat values and provides for shoreline restoration in conjunction with remedial actions.

to any public comments received. Immediately after these public comments have been consolidated responded to, this agreed order shall be finalized.

- **Draft RI/FS Work Plan** – The draft RI/FS Work Plan shall be due 60 calendar days after finalization of the Agreed Order. This draft will then undergo a 30 day review period by Ecology.
- **Draft final RI/FS Work Plan** – The draft final RI/FS Work Plan shall incorporate comments submitted by Ecology after the 30 day Ecology review period. The draft final RI/FS Work Plan shall be due 30 days after the Ecology review period. This draft final will then undergo a 20 day review period by Ecology.
- **Final RI/FS Work Plan** – The final RI/FS Work Plan shall incorporate comments submitted by Ecology after the 20 day Ecology review period. This shall be due 20 days after the review by Ecology.
- **RI/FS Study (field sampling)**
 - **Phase 1 RI/FS Study** – Begin immediately after the completion and submission to Ecology of the Final RI/FS Work Plan.
 - **Phase 1 Field Investigation Results** – The Phase 1 field investigation results (as discussed previously under the RI Approach) should be provided to Ecology 30 calendar days after the receipt of the pertinent laboratory results. Within 30 days, the review and resulting discussions/comments of the phase 1 results shall be completed.
 - **Phase 2 RI/FS Study (if needed)** – Begin immediately upon completion of the review and discussions/comments of the phase 1 results.
- **Draft RI/FS Report** – The draft RI/FS report shall be due 60 calendar days after receipt of all analytical data collected during the RI/FS study. This draft will then undergo a 30 day review period by Ecology.

- **Draft Final RI/FS Report** – The draft final RI/FS Report shall incorporate comments submitted by Ecology after the 30 day Ecology review period. The draft final RI/FS Report shall be due 30 days after this Ecology review period. This draft final will then undergo a 20 day review period by Ecology.
- **Final RI/FS Report** – The final RI/FS Report shall incorporate comments submitted by Ecology after the 20 day Ecology review period. This shall be due 20 days after the review by Ecology. The final RI/FS Report will go to a 30 day public comment period along with the draft final Cleanup Action Plan.
- **Draft Cleanup Action Plan (CAP)** – The draft CAP is due 60 days after finalization of the RI/FS Report. This draft will then undergo a 30 day review period by Ecology.
- **Draft Final Cleanup Action Plan (CAP)** – The draft final CAP shall incorporate comments submitted by Ecology after the 30 day Ecology review period. This draft final shall be due 30 days after the Ecology review period. Upon completion, this draft final will then go to a 30 day public comment period along with the final RI/FS Report.

E. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notice

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

B. Remedial Action Costs

Yon Kim shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated \$3,140.00 in remedial action costs related to this facility as of April 30th, 2009. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to April 30th, 2009, Yon Kim shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

C. Implementation of Remedial Action

If Ecology determines that Yon Kim has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to Yon Kim, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of Yon Kim's failure to comply with its obligations under this Order, Yon Kim shall reimburse Ecology for the costs of doing such work in accordance with Section VIII. B (Remedial Action Costs), provided that Yon Kim is not obligated under this Section to

reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, Yon Kim shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Isaac Standen
PO Box 47600
Olympia, Washington 98504
(360) 407-6776
E-Mail: ista461@ecy.wa.gov

The project coordinator for Yon Kim is:

Mr. Yon Kim
2530 Peace Portal Drive
Blaine, Washington 98230-9782

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and Yon Kim, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

E. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

Yon Kim shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that Yon Kim either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing Yon Kim's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Yon Kim. Yon Kim shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by Yon Kim where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by Yon Kim unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, Yon Kim shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal. Attached as Exhibit B is Ecology Policy 840, Data submittal Requirements.

If requested by Ecology, Yon Kim shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by Yon Kim pursuant to implementation of this Order. Yon Kim shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow Yon Kim and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII. F (Access), Ecology shall notify Yon Kim prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A Public Participation Plan (see WAC 173-340-600) that is required for this Site, has been developed and is included as Exhibit C. Ecology shall maintain the responsibility for public participation at the Site. However, Yon Kim shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering

design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify Yon Kim prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Yon Kim that do not receive prior Ecology approval, Yon Kim shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. Blaine Library
610 3rd St
Blaine, WA 98230
(360) 332-8146
- b. Department of Ecology
Toxics Cleanup Program
Headquarters Office
300 Desmond Drive SE, Lacey, Washington

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly placed in these repositories.

I. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, Yon Kim shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert

a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, Yon Kim shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII. B (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, Yon Kim has fourteen (14) days within which to notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

c. Yon Kim may then request regional management review of the decision. This request shall be submitted in writing to the Headquarters Region Toxics Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of Yon Kim's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended;
- b. The length of the extension sought;
- c. The reason(s) for the extension; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on Yon Kim to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of Yon Kim including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by Yon Kim;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII. M (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of Yon Kim.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give Yon Kim written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII. L (Amendment of Order) when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner;
- b. Other circumstances deemed exceptional or extraordinary by Ecology; or
- c. Endangerment as described in Section VIII. M (Endangerment).

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII. N (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and Yon Kim. Yon Kim shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII. J (Resolution of Disputes).

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct Yon Kim to cease such activities for such period of time as it deems necessary to abate the danger. Yon Kim shall immediately comply with such direction.

In the event Yon Kim determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, Yon Kim may cease

such activities. Yon Kim shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction Yon Kim shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with Yon Kim's cessation of activities, it may direct Yon Kim to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII. M (Endangerment), Yon Kim's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII. K (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against Yon Kim to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against Yon Kim regarding remedial actions required by this Order, provided Yon Kim complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Yon Kim without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to Yon Kim's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, Yon Kim shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, Yon Kim shall notify Ecology of said transfer. Upon transfer of any interest, Yon Kim shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by Yon Kim pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. At this time, no federal, state or local requirements have been identified as being applicable to the actions required by this Order.

2. Pursuant to RCW 70.105D.090(1), Yon Kim is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, Yon Kim shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

Yon Kim has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or Yon Kim determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination.

Ecology shall determine whether Ecology or Yon Kim shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Yon Kim shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Yon Kim and on how Yon Kim must meet those requirements. Ecology shall inform Yon Kim in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Yon Kim shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and Yon Kim shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Indemnification

Yon Kim agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of Yon Kim, its officers, employees, agents, or contractors in entering into and implementing this Order. However, Yon Kim shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon Yon Kim's receipt of written notification from Ecology that Yon Kim has completed the remedial activity required by this

Order, as amended by any modifications, and that Yon Kim has complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

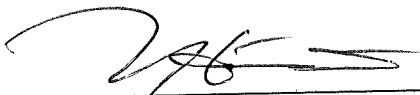
Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. In the event Yon Kim refuses, without sufficient cause, to comply with any term of this Order, Yon Kim will be liable for:
 - a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and
 - b. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.
- D. This Order is not appealable to the Washington Pollution Control Hearings Board.

This Order may be reviewed only as provided under RCW 70.105D.060.

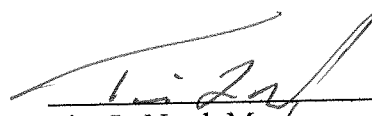
Effective date of this Order: December 3, 2009

Yon Kim



Yon Kim
Owner/operator of Blaine Mini Mart
2530 Peace Portal Drive
Blaine, Washington 98230-9782
Phone: (360)-332-8905

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**



Tim L. Nord, Manager
Land and Aquatic Lands Section
Toxics Cleanup Program - HQ

EXHIBIT A:
SITE LOCATION MAP, DIAGRAMS, AND
SITE/PROPERTY LOCATION INFORMATION

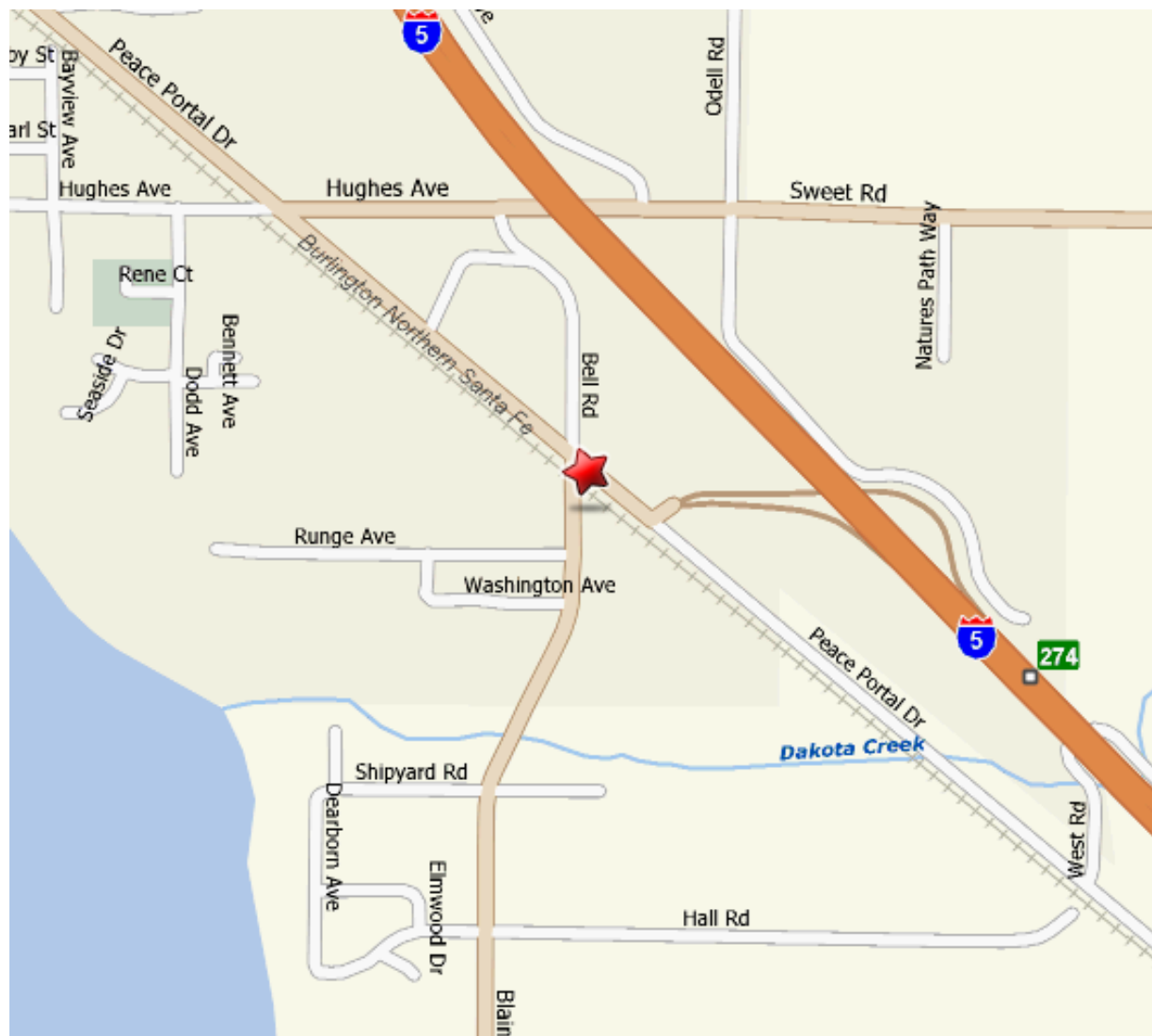


Exhibit A – Figure 1

Blaine Mini Mart

Location denoted by red star

Source: MapQuest June 2009

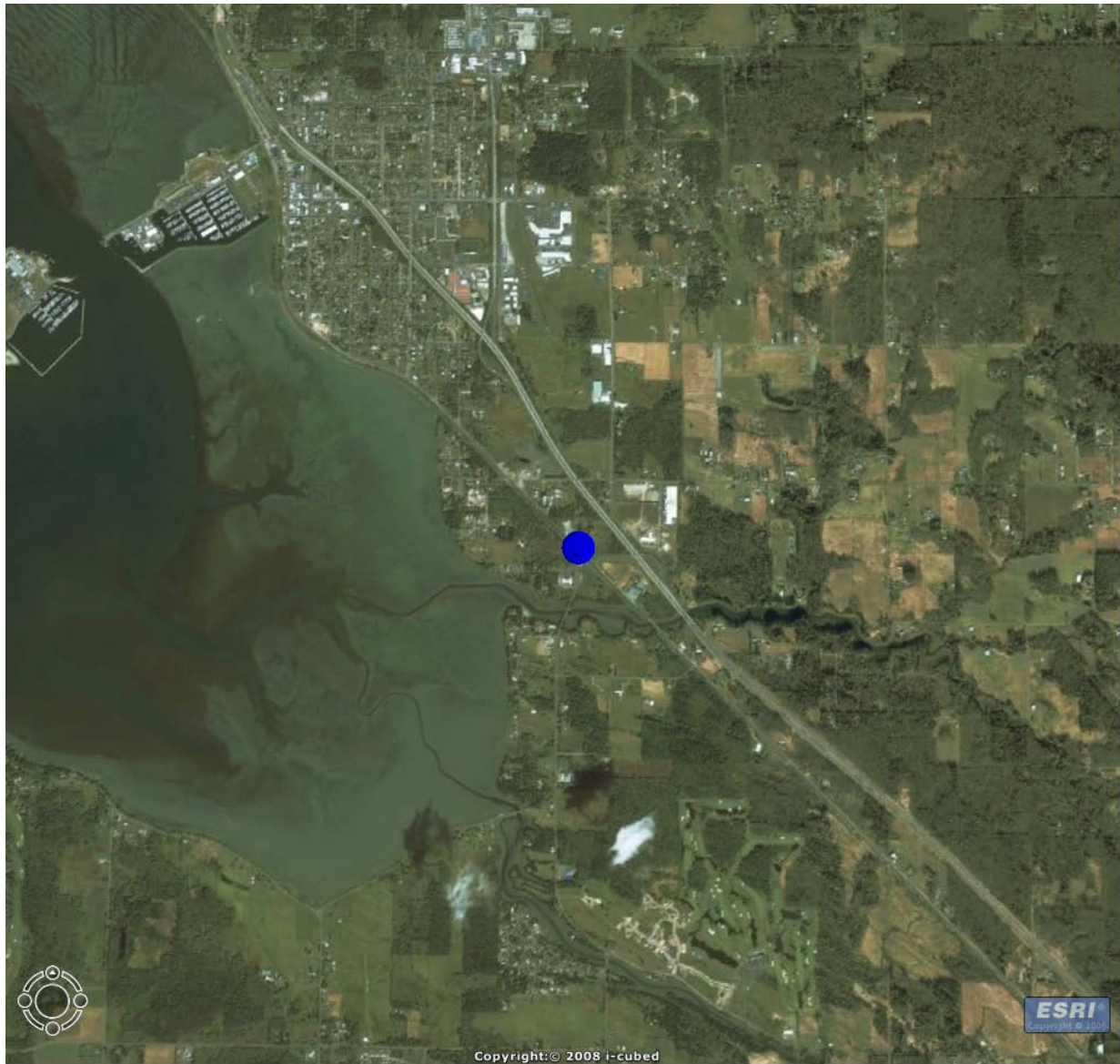


Exhibit A – Figure 2

Blaine Mini Mart

Location denoted by blue dot

Source: Imagery: I Cubed, 2008 Acquired: Via ArcGIS Explorer by ESRI

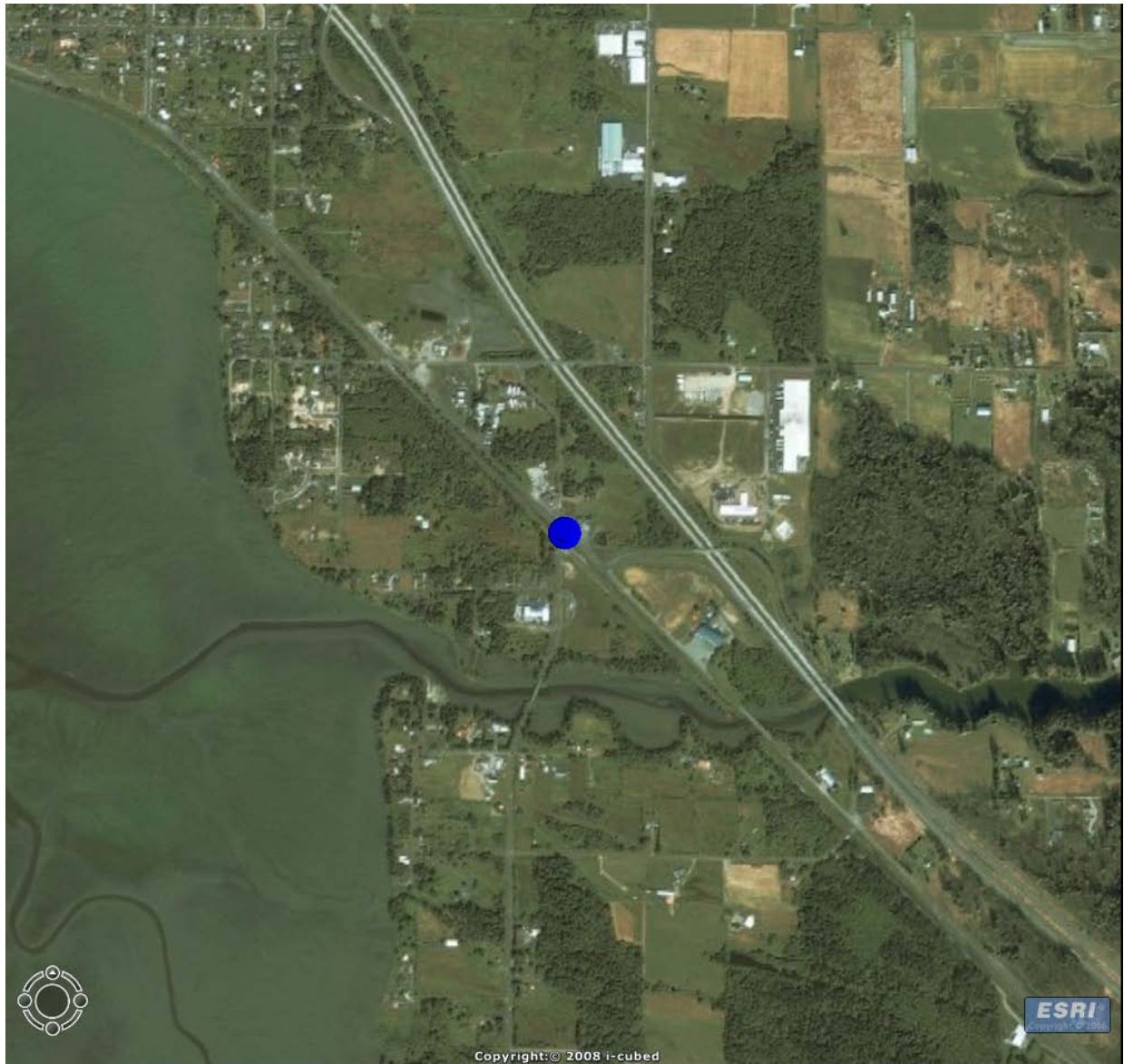


Exhibit A – Figure 3

Blaine Mini Mart

Location denoted by blue dot

Source: Imagery: I Cubed, 2008 Acquired: Via ArcGIS Explorer by ESRI

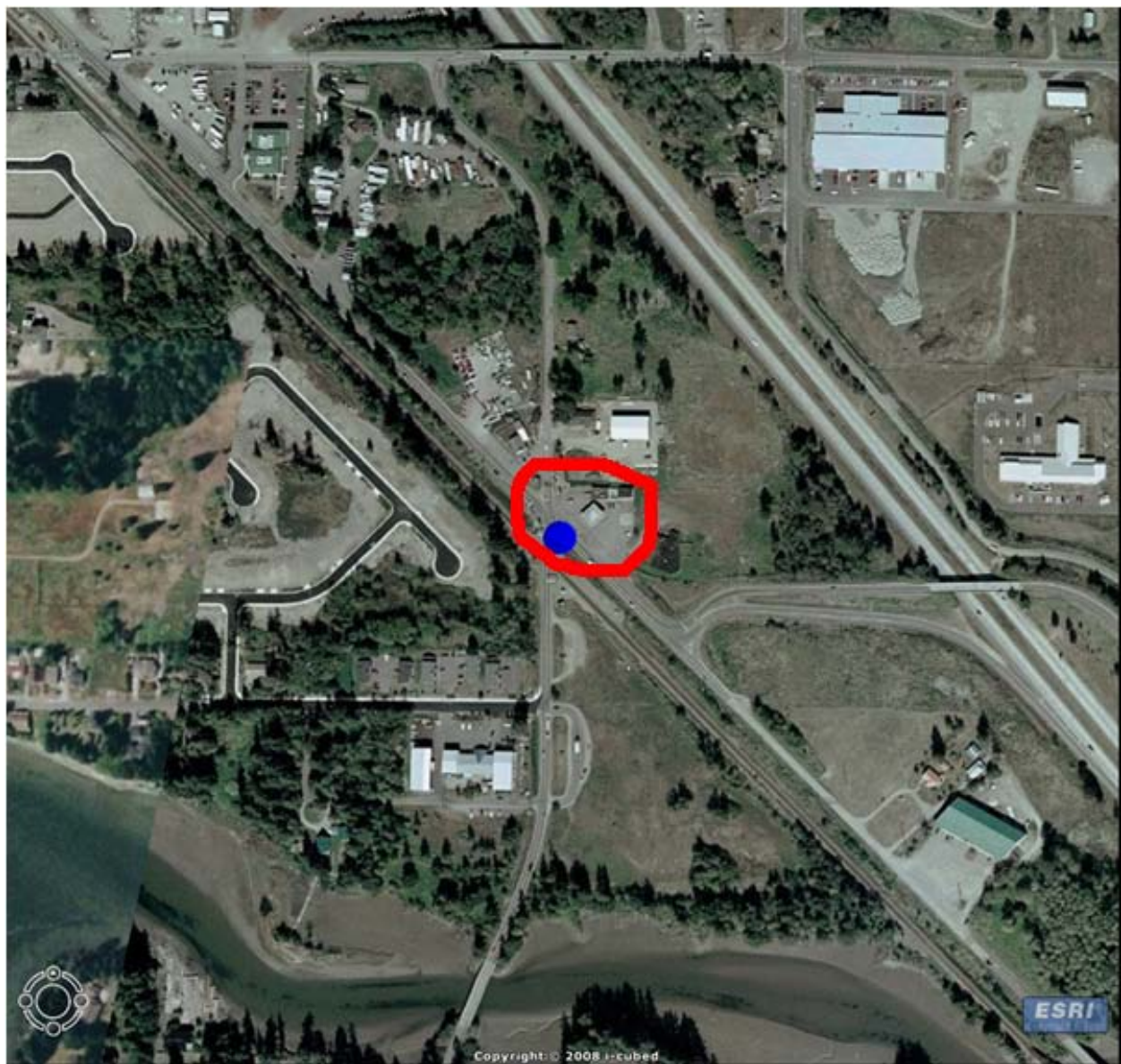


Exhibit A – Figure 4

Blaine Mini Mart

Location denoted by red circle

Source: Imagery: I Cubed, 2008 Acquired: Via ArcGIS Explorer by ESRI

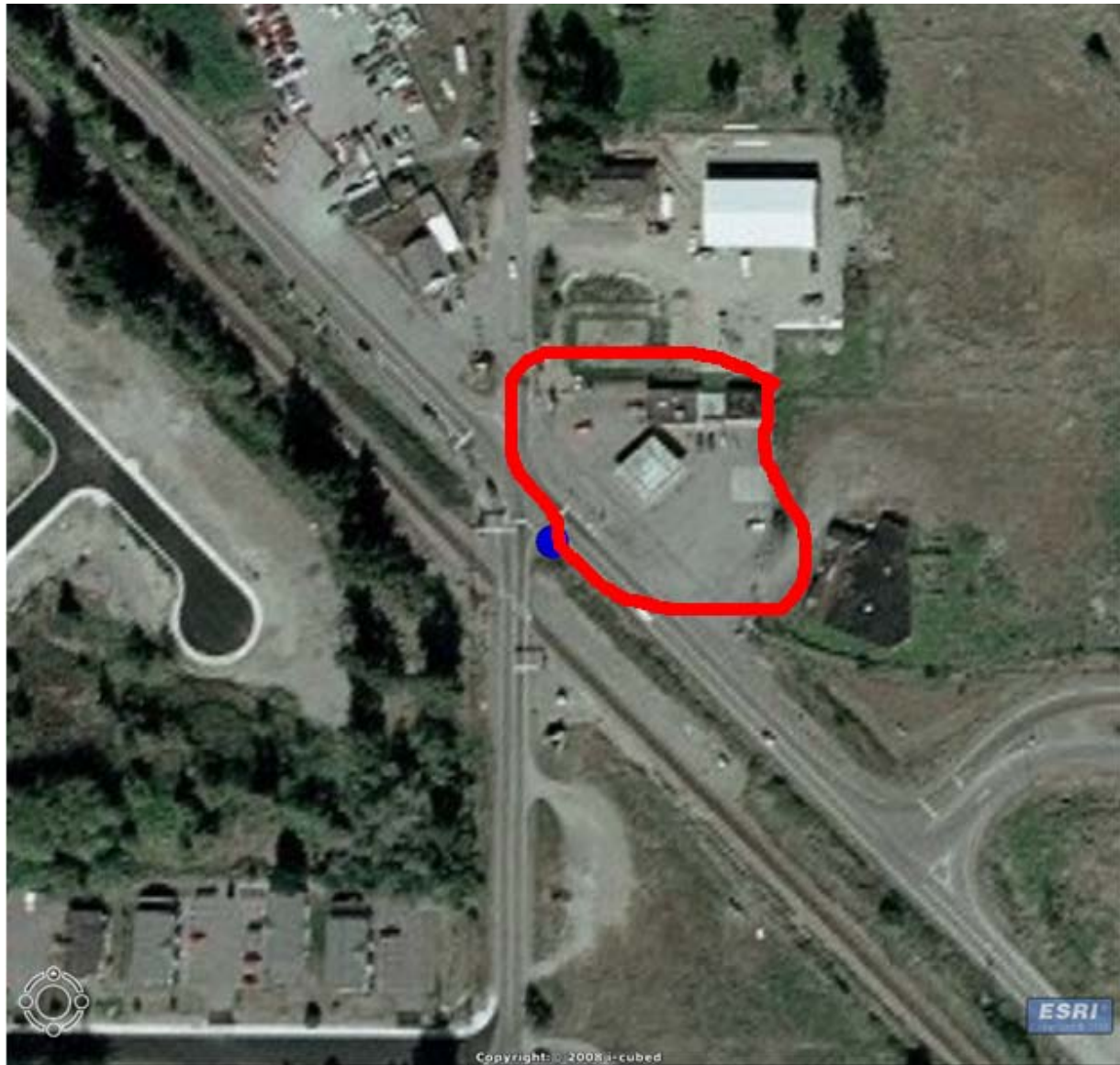


Exhibit A – Figure 5

Blaine Mini Mart

Location denoted by red circle

Source: Imagery: I Cubed, 2008 Acquired: Via ArcGIS Explorer by ESRI


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Parcel Summary	Tax Summary	Tax Detail	Assessment/History	Appeals/Permits/Sales	Building Details	Map List
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400107 533457 0000

Site address: 2530 PEACE PORTAL DR

Legal: HOLLAND-MCFARLAND'S ADD TO BLAINE

Description: LOTS 1 THRU 8-40 THRU 46 BLK 22-TOG WI
VAC S 1/2 STEUBLI AVE ABTG-LESS RR-HWY-
EXC PTN TO STATE FOR HWY DESC AF 862535-

883189
Owner: YON H & INSON KIM
2530 PEACE PORTAL DR
BLAINE WA 98230-9782

Taxpayer: YON H & INSON KIM

Property Characteristics

	Assessed Value	Total Acres		
Land:	217,500	.50		
Imp:	222,000			
Total:	439,500			
Land Use:	5530 GASOLINE SERVICE STATIONS			
Tax Dist:	300 BLAINE 503 F21 NPR L		F/P?	N
Zoning:	HWY COMM AUTO		F/P Ac:	.00
Tax Status:	TAXABLE		Exempt Prog:	

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400107 533457 0000

Tax Summary

Year	S	Tax	Assm	Net Tax
09		3,833.18	.00	3,833.18
08		3,938.95	.00	3,938.95
07		4,062.11	.00	4,062.11

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Parcel Summary	Tax Summary	Tax Detail	Assessment/History	Appeals/Permits/Sales	Building Details	Map List
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400107 533457 0000

Tax Details

Property Identification

Property Type	Real Property
Tax District	0300
Situs Address	2530 PEACE PORTAL DR

HOLLAND-MCFARLAND'S ADD TO BLAINE LOTS 1 THRU 8-40 THRU 46 BLK 22-TOG WI VAC S 1/2 STEUBLI AVE ABTG-LESS RR-HWY-EX FOR HWY DESC AF 862535-



Pay Online

Check the line items below that you wish to pay and click the 'Calculate Payment' button. After you confirm your s 'Pay Now' and you will be redirected to our secure payment site.

	Tax	Assessment	Interest	Penalty	Total	D
<input type="checkbox"/> 1ST Half	\$ 1,916.59				\$1,916.59	04
<input type="checkbox"/> 2ND Half	\$ 1,916.59				\$1,916.59	10
Total Due as of 03/16/2009					\$3,833.18	Distrib

[Calculate Payment](#)

Value(s)		Current Tax Details	
Building(s)	\$ 222,000.00	Gross Tax	\$3,833.18
Land	\$ 217,500.00	Special Assessment	
Levy Rate	8.72170	Net Tax & Assessments	\$3,833.18

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Parcel Summary	Tax Summary	Tax Detail	Assessment/History	Appeals/Permits/Sales	Building Details	Map List
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400107 533457 0000

Assessment Summary

	Acres	Taxable	Market	
Improved Land	.50	217,500	217,500	
Unimproved Land	.00	0	0	
Timberland	.00	0	0	
Improvements		222,000	222,000	ID
Total	.50	439,500	439,500	FM

Valuation History

	Yr	Land Value	Imp Value	Total Value	ID	Chg
Taxable:	07	217,500	222,000	439,500	FM	RV
Market:		217,500	222,000	439,500		
Taxable:	03	174,000	86,000	260,000	FM	RV
Market:		174,000	86,000	260,000		
Taxable:	02	139,500	163,125	302,625	FM	CE
Market:		139,500	163,125	302,625		

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Appeal History

Petition #	Decision	Stat	Change
BE01-2990		CE	0

Building Permit History

Permit #	Date	Permit Type	Amount	Status
BLDG-109-05	9/27/05	PERS PROPERTY IMPS	40,000	PPR
DEMO-10-05	9/14/05	DEMOLISH COMMRCIAL	0	FIN

Sales History

Date	Doc	Seller	Buyer	Aud File #	Excise #	RP Sale Amt	Mul
11/19/97	WD	ROBERT DRAKE	TO YON & INSON KIM	197- 1102524	1997- 12432	540,000	
6/20/97	WD	BELL & DRAKE ENTERPRISES	TO ROBERT DRAKE	197- 0603180	1997- 01540		0

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Parcel Summary	Tax Summary	Tax Detail	Assessment/History	Appeals/Permits/Sales	Building Details	Map List
--------------------------------	-----------------------------	----------------------------	------------------------------------	---------------------------------------	----------------------------------	--------------------------

400107 533457 0000

Building Details

No building detail.

Land Segment Details

Method	Class	Use	Quantity	Rate	Adj%	Value	Waterfront	View	Topog/Type	Service	Ab
Sq Ft	Improv	5530	21750	1000	0	217,500			Clear Level		

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Parcel Summary	Tax Summary	Tax Detail	Assessment/History	Appeals/Permits/Sales	Building Details	Map List
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400107 533457 0000

TwN-Rng-Sec: 40-01-07

Map No.	Map Area
01	Whole Section
02	NE Quarter
03	NW Quarter
06	NE ¼ NE ¼
07	NW ¼ NE ¼
08	SW ¼ NE ¼
09	SE ¼ NE ¼
10	NE ¼ NW ¼
18	NE ¼ SE ¼
19	NW ¼ SE ¼
20	SW ¼ SE ¼
21	SE ¼ SE ¼

Maps found: 12

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EXHIBIT B:
ECOLOGY POLICY 840, DATA SUBMITTAL
REQUIREMENTS



Toxics Cleanup Program Policy

Policy 840

Resource Contact: Policy and Technical Support Staff *Effective:* August 1, 2005

References: WAC 173-340-840(5)

Revised: September 9, 2005

<http://www.ecy.wa.gov/eim/>

<http://www.ecy.wa.gov/programs/tcp/smu/sedqualfirst.htm>

<http://www.ecy.wa.gov/biblio/0309043.html>

Replaces: Procedure 840

Policy 840: Data Submittal Requirements

Purpose: Contaminated site investigations and cleanups generate a large volume of environmental monitoring data that need to be properly managed to facilitate regulatory decisions and access to this data by site owners, consultants, and the general public. The purpose of this policy is to describe the requirements for submitting environmental monitoring data generated/collected during the investigation and cleanup of contaminated sites under the Model Toxics Control Act (MTCA) and the Sediment Management Standards.

Application: This policy applies to Ecology staff, potentially liable parties, prospective purchasers, state and local agencies, and Ecology contractors that investigate or manage the cleanup of contaminated sites.

1. Unless Otherwise Specified by Ecology, all Environmental Monitoring Data Generated during Contaminated Site Investigations and Cleanups shall be Required to be Submitted to Ecology in both a Written and Electronic Format.

Environmental monitoring data include biological, chemical, physical, and radiological data generated during site investigations and cleanups under the Model Toxics Control Act Cleanup Regulation (WAC 173-340) and the Sediment Management Standards (WAC 173-204).

Data generated/collected during site investigations and cleanups conducted under an order, agreed order or consent decree, permit, grant, loan, contract, interagency agreement, memorandum of understanding or during an independent remedial action, are considered environmental monitoring data under this policy.

Data generated/collected for non site-specific studies, site hazard assessments that result in no further action and initial site investigations are not considered environmental monitoring data under this policy.

2. Orders, Agreed Orders, Consent Decrees, or Permits Issued After the Effective Date of this Policy Shall Include a Condition that Site-Specific Data be Submitted in Compliance with this Policy.

Reports on such work that do not include documentation that the data have been submitted in compliance with this policy shall be deemed incomplete and a notice of such provided to the

submitter. These reports generally should not be reviewed until that information is provided. The assistant attorney general assigned to the site should be consulted in these situations.

3. Reports on Independent Remedial Actions Submitted for Review After October 1, 2005, Under Ecology's Voluntary Cleanup Program Shall Not be Reviewed Until the Data Have Been Submitted in Compliance with this Policy.

Such reports shall be deemed incomplete, and a notice to this effect provided to the submitter.

4. Grants, Contracts, Interagency Agreements or Memoranda of Understanding Issued After the Effective Date of this Policy Shall Include a Condition that Site-Specific Data be Submitted in Compliance with this Policy.

Reports on such work shall not be accepted as complete until the data have been submitted in compliance with this policy. If a payment or transfer of funds is involved in the transaction, the relevant payment or transfer shall be withheld until this requirement has been met.

Example language to include in these documents is attached in Appendix A.

5. Data Generated During Upland Investigations and Cleanups Shall be Submitted Electronically Using Ecology's Environmental Information Management System (EIM).

EIM is Ecology's main database for environmental monitoring data. Proper submission of data through this system meets the requirement of submitting such data in an electronic format. Electronic data shall be submitted to Ecology simultaneously with the accompanying printed report.

Additional information on EIM, including instructions for data submittal, can be found on Ecology's EIM web site at <http://www.ecy.wa.gov/eim/>. TCP's EIM Coordinator also is available for technical assistance to site managers and consultants using EIM.

6. Data Submitted Electronically Using EIM Shall be Checked by the Toxics Cleanup Program's EIM Coordinator Prior to Loading the Data into EIM.

Normally, notice that data have been submitted through EIM will come to TCP's EIM Coordinator. Upon receipt of such a notice the EIM Coordinator should notify the site manager. Similarly, if the Ecology site manager receives a notice of an EIM submittal, they should notify TCP's EIM Coordinator. Upon receipt of the data, TCP's EIM Coordinator reviews the submittal for quality control and officially loads the data into the system.

7. Data Generated During Sediment Investigations and Cleanups shall be Submitted Electronically Using Ecology's Sediment Quality Information System (SEDQUAL).

SEDQUAL is Ecology's data management system for sediment-related data. Proper submission of data through this system meets the requirement of submitting such data in an electronic format. Electronic data shall be submitted to Ecology simultaneously with the accompanying printed report.

8. Sediment Sampling Data Shall be Submitted to Ecology Using the SEDQUAL Data Entry Templates.

At a minimum, the following SEDQUAL data entry templates must be completed:

1. **Reference & Bibliography:** Describes lab reports and publications that relate to the data being entered;
2. **Survey:** Sample number;
3. **Station:** Specifies geographic location of the sediment sample. Sample latitude/longitude coordinates must be entered using the North American Datum of 1983 in U.S. Survey feet (NAD 83, U.S. feet);
4. **Sample:** Describes sample characteristics such as depth; and
5. **Sediment Chemistry:** Reports chemical concentration data in dry weight units.

The following additional templates must also be completed where these measurements/observations have been made:

1. **Bioassay:** Bioassay test results;
2. **Bioassay Control:** Bioassay control test results;
3. **Benthic Infauna:** Species abundance & diversity;
4. **Tissue:** Describes the organism collected;
5. **Bioaccumulation:** Reports tissue chemical concentrations; and
6. **Histopathology:** Reports tissue pathology such as tumors or lesions.

9. Electronic Data Formats Shall be Verified to be Compatible with SEDQUAL Prior to Submittal.

Because SEDQUAL uses ASCII protocol and comma delimited text files, data format verification shall be conducted prior to submittal to Ecology. Data shall be verified by downloading the SEDQUAL database, importing the data into the database, correcting errors, and then exporting the corrected templates.

For additional information on sediment sampling and analysis plan requirements, see Ecology publication 03-09-043 "Sediment Sampling and Analysis Plan Appendix", April, 2003. A copy of this document can be obtained from Ecology's publication office or downloaded from the following web site: <http://www.ecy.wa.gov/biblio/0309043.html>

Additional information on SEDQUAL can be found at:

<http://www.ecy.wa.gov/programs/tcp/smu/sedqualfirst.htm>. ICP's SEDQUAL Coordinator is also available for technical assistance to site managers and consultants using SEDQUAL.

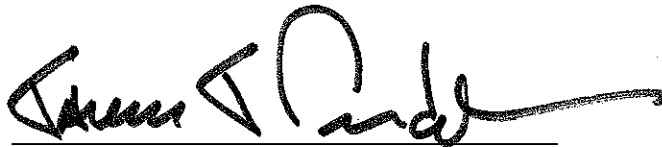
10. Sediment Sampling Data Shall Also be Submitted to Ecology in a Printed Report.

Printed reports shall present the data in both dry weight and total organic carbon normalized units in data tables that compare the results to applicable state regulatory criteria.

11. Data Submitted Electronically Using SEDQUAL Shall be Checked by the Toxics Cleanup Program's SEDQUAL Coordinator Prior to Loading the Data into SEDQUAL.

Normally, SEDQUAL data submittals will come to TCP's SEDQUAL Coordinator. Upon receipt of a submittal, the Coordinator should notify the site manager. Similarly, if the Ecology site manager receives a SEDQUAL submittal, they should notify TCP's SEDQUAL Coordinator. Upon receipt of the data, TCP's SEDQUAL Coordinator reviews the submittal for quality control and officially loads the data into the system.

Approved



James J. Pendowski, Program Manager
Toxics Cleanup Program

Policy Disclaimer: This policy is intended solely for the guidance of Ecology staff. It is not intended, and cannot be relied on, to create rights, substantive or procedural, enforceable by any party in litigation with the state of Washington. Ecology may act at variance with this policy depending on site-specific circumstances, or modify or withdraw this policy at any time.

APPENDIX A: MODEL GRANT AND PERMIT CONDITION

The following condition is to be inserted in permits, grants, loans, contracts, interagency agreements, memorandum of understandings where site-specific environmental monitoring data is expected to be generated:

All sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with WAC 173-340-840(5) and Ecology Toxics Cleanup Program Policy 840: Data Submittal Requirements. Electronic submittal of data is not required for site hazard assessments that result in no further action and initial site investigations. (FOR GRANTS & CONTRACTS ADD: Failure to properly submit sampling data will result in Ecology withholding payment and could jeopardize future grant funding)

EXHIBIT C:
Public Participation Plan

Site Cleanup:

BLAINE MINI MART SITE

2530 Peace Portal Drive
Blaine, Washington 98230-9782

DRAFT PUBLIC PARTICIPATION PLAN

Prepared by:

Washington State Department of Ecology



September 2009

This plan is for you!

This public participation plan is prepared for the Blaine Mini Mart Site cleanup as part of the requirements of the Model Toxics Control Act (MTCA). The plan provides information about MTCA cleanup actions and requirements for public involvement, and identifies how Ecology and Yon Kim will support public involvement throughout the cleanup. The plan is intended to encourage coordinated and effective public involvement tailored to the community's needs around Blaine Mini Mart.

For additional copies of this document, please contact:

Washington State Department of Ecology
Isaac Standen, Site Manager
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
(360) 407-6776
Email: ista461@ecy.wa.gov

If you need this publication in an alternate format, please call the Toxics Cleanup Program at (360) 407-7170. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call (877) 833-6341 (TTY).

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1.0: Introduction and Overview of the Public Participation Plan

This Public Participation Plan explains how you can become involved in improving the health of your community. It describes public participation opportunities that will be conducted during cleanup of a site in Blaine, the Blaine Mini Mart Site. These opportunities are part of a cooperative agreement between the Washington State Department of Ecology (Ecology) and Yon Kim. The current agreement, called an Agreed Order, is a legal document in which Yon Kim and Ecology agree to decide on cleanup actions for the Blaine Mini Mart Site. Blaine Mini Mart is located at 2530 Peace Portal Drive Blaine, Washington.

Cleanup actions and the public participation process that helps guide them are established in Washington's Model Toxics Control Act (MTCA).¹ Under MTCA, Ecology is responsible for providing timely information and meaningful chances for the public to learn about and comment on important cleanup decisions before they are made. The goals of the public participation process are:

- To promote understanding of the cleanup process so that the public has the necessary information to participate.
- To encourage involvement through a variety of public participation opportunities.

This Public Participation Plan provides a framework for open dialogue about the cleanup among community members, Ecology, cleanup site owners, and other interested parties. It outlines basic MTCA requirements for community involvement activities that will help ensure that an exchange of information takes place during the investigation and cleanup, which include:

- Notifying the public about available reports and studies about the site.
- Notifying the public about review and comment opportunities during specific phases of the cleanup investigation.
- Providing appropriate public participation opportunities such as fact sheets to learn about cleanup documents and if community interest exists, holding meetings to solicit input and identify community concerns.
- Considering public comments received during public comment periods.

¹ The Model Toxics Control Act (MTCA) is the contaminated site cleanup law for the State of Washington. The full text of the law can be found in Revised Code of Washington (RCW), Chapter 70.105D. The legal requirements and criteria for public notice and participation during MTCA cleanup investigations can be found in Washington Administrative Code (WAC), Section 173-340-600.

In addition to these basic requirements, the plan may include additional site-specific activities to meet the needs of your community. Based upon the type of the proposed cleanup action, the level of public concern, and the risks posed by the site, Ecology may decide that more public involvement opportunities are appropriate.

These opportunities form the basis for the public participation process. The intent of this plan is to:

- Provide complete and current information to all interested parties.
- Let you know when there are opportunities to provide input.
- Listen to concerns.
- Address those concerns.

Part of the Puget Sound Initiative

Blaine Mini Mart is one of a number of sites in the Blaine area and is part of a larger cleanup effort called the Puget Sound Initiative (PSI). Governor Chris Gregoire and the Washington State Legislature authorized the PSI as a regional approach to protect and restore Puget Sound. The PSI includes cleaning up 50-60 contaminated sites within one-half mile of the Sound. These sites are grouped in several bays around the Sound for “baywide” cleanup efforts. As other sites in the Blaine baywide area move forward into investigation and cleanup, information about them will be provided to the community as well as to interested people and groups.

Roles and Responsibilities

Ecology will lead public involvement activities, with support from Yon Kim. Ecology maintains overall responsibility and approval authority for the activities outlined in this plan. Yon Kim is responsible for cleanup at this Site. Ecology ultimately will oversee all cleanup activities, and ensure that contamination on this Site is cleaned up to concentrations that are established in state regulations and that protect human health and the environment.

Organization of this Public Participation Plan

The sections that follow in this plan provide:

- Section 2: Background information about the Blaine Mini Mart Site.
- Section 3: An overview of the local community that this plan is intended to engage.
- Section 4: Public involvement opportunities in this cleanup.

This Public Participation Plan addresses current conditions at the Site, but it is intended to be a dynamic working document that will be reviewed at each phase of the cleanup, and updated as needed. Ecology and Yon Kim urge the public to become involved in the cleanup process.

2.0: Site Background

Site Description and Location

The Blaine Mini Mart Site is located at 2530 Peace Portal Drive Blaine, Whatcom County, Washington (Figure 1). The Site is situated in a mixed commercial/residential area and consists of a half acre parcel. The Site is bounded to the north by a vacant parcel covered with grasses, shrubs, and small trees, with single family residence and a barn located farther to the north. Peace Portal Drive forms the southern boundary of the Site, with railroad tracks and a field vegetated with grasses further to the south. A vacant building and associated unpaved parking lot are present east of the Site, with Interstate-5 exit / on-ramp 274 further to the east. Bell Road and its intersection with Peace Portal Drive form the western boundary of the Site.

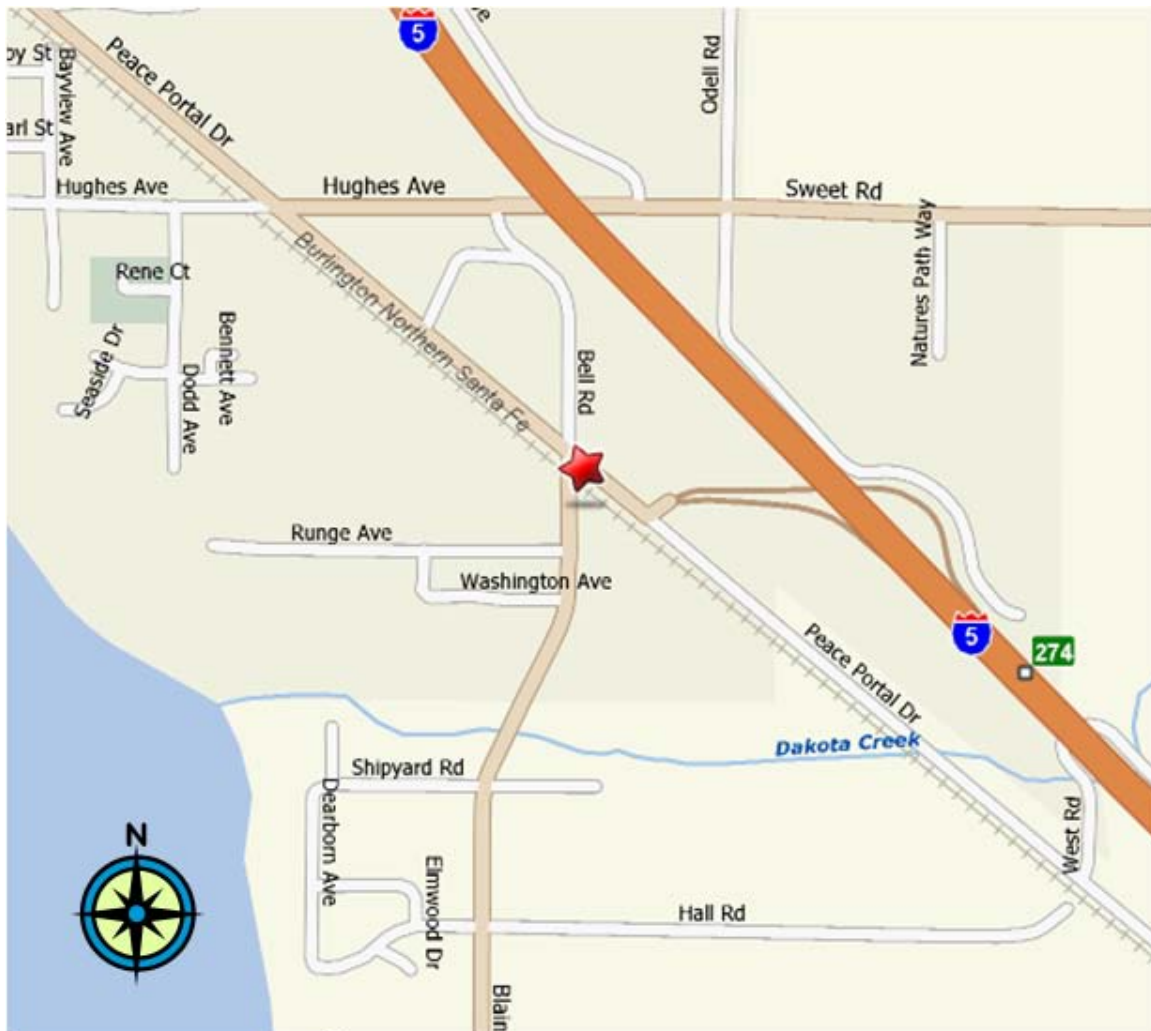


Figure 1: The Blaine Mini Mart Site is shown in the above map with a star, located at 2530 Peace Portal Drive Blaine, WA.

General Site History and Contaminants

The Blaine Mini Mart Site is a gas station. Chemicals formerly used on the Site include Benzene, Toluene, Ethylbenzene, Xylenes (four compounds often found in petroleum products), gasoline, and MTBE (a gasoline additive). Contaminants from these activities are present in Site soil and groundwater.

Yon Kim conducted soil and groundwater investigations on the Site and found the following contaminants at concentrations above MTCA cleanup levels:

- In soil, concentrations of Gasoline, Benzene, and MTBE were in exceedence MTCA Method A cleanup levels.
- In groundwater, concentrations of Gasoline, Benzene, Toluene, Ethylbenzene, Xylenes, MTBE, diesel, and heavy oil range petroleum hydrocarbons were found in exceedence of MTCA Method A cleanup levels.

Further investigation will be done to fully characterize the contamination at the Blaine Mini Mart Site.

The Cleanup Process

Washington State's cleanup process and key chances for you to provide input are outlined in Figure 2. In general, the cleanup process includes the following steps:

- Remedial Investigation (RI) - investigates the site for types, locations, and amounts of contaminants.
- Feasibility Study (FS) - identifies cleanup options for those contaminants.
- Cleanup Action Plan (CAP) – selects the preferred cleanup option and explains how cleanup will be conducted.

Each of these steps will be documented in reports and plans that will be available for public review. Public comment periods of at least 30 calendar days are usually conducted for the following documents:

- Draft RI report.
- Draft FS report.
- Draft CAP.

These cleanup steps and documents are described in greater detail in the following subsections.

Interim Actions

Interim actions may be conducted during the cleanup if required by Ecology. An interim action partially addresses the cleanup of a site, and may be required if:

- It is technically necessary to reduce a significant threat to human health or the environment.
- It corrects a problem that may become substantially worse or cost substantially more to fix if delayed.
- It is needed to complete another cleanup activity, such as design of a cleanup plan.

Interim actions are not currently anticipated on the Blaine Mini Mart Site.

Remedial Investigation/Feasibility Study Report

Yon Kim has agreed to conduct an RI on the Site. The RI determines which contaminants are on the Site, where they are located, and whether there is a significant threat to human health or the environment. The draft RI report provides baseline data about environmental conditions that will be used to develop cleanup options. The draft FS report identifies and evaluates cleanup options, in preparation for the next step in the process.

The RI and FS processes typically include several phases:

- Scoping.
- Site characterization.
- Development and screening of cleanup alternatives.
- Treatability investigations (if necessary to support decisions).
- Detailed analysis.

The RI and FS reports are expected to be combined into a draft Blaine Mini Mart RI/FS report. The draft report is anticipated to be completed in the spring of 2011 and will be made available for public review and comment.

Cleanup Action Plan

Yon Kim and Ecology have agreed to develop a draft CAP for the Site. After public comment on the draft RI/FS report, a preferred cleanup alternative will be selected. The draft CAP explains the cleanup standards that will be applied at the site, selects the preferred cleanup alternative(s), and outlines the work to be performed during the actual site remediation. The CAP may also evaluate the completeness and effectiveness of any interim actions performed at a site. The draft CAP will be available for public review and

comment. Once public comments are reviewed and any changes are made, Ecology provides final approval and site cleanup can begin. Cleanup is anticipated to be completed in the summer of 2012.

3.0: Community Profile

Community Profile

Blaine is located in the northwest corner of Washington at the Canadian border. It is 35 miles south of Vancouver, British Columbia, and 110 miles north of Seattle. Blaine is situated on the banks of Drayton Harbor to the west and is 25 miles east of the foothills of the Cascade Mountain Range. The City of Blaine contains about 3.3 square miles of land. The city has marinas located near downtown and on the Semiahmoo Spit. The population of Blaine was 3,770 people as of a census taken in the year 2000.

Much of Blaine's economy is based on trade across the Canadian border. The eastern side of the city accommodates a number of import/export warehouses, freight and courier services and gas stations serving long haul cargo trucks. The Customs and Border Protection branch of the Department of Homeland Security operates two border inspection stations in Blaine. Blaine also includes a number of manufacturing companies.

Key Community Concerns

An important part of the Public Participation Plan is to identify key community concerns for each cleanup site. The Blaine Mini Mart Site is zoned as Highway Commercial subzone A industrial, but is located near residential and planned commercial areas. The proximity of the community to the Site is likely to raise questions about how daily life and the future of the community may be affected during and after cleanup of the Site.

Many factors are likely to contribute to community questions, such as the amount of contamination, how the contamination will be cleaned up, or future use of the Site. Community concerns often change over time as new information is learned and questions are answered. Identifying site-specific community concerns at each stage of the cleanup process will be helpful to ensure that they are adequately addressed. On-going key community concerns will be identified for the Blaine Mini Mart Site through public comments and other opportunities as outlined in Section 4.

4.0: Public Participation Opportunities

Ecology and Yon Kim invite you to share your comments and participate in the cleanup in your community. As we work to meet our goals, we will evaluate whether this public participation process is successful. This section describes the public participation opportunities for this Site.

Measuring Success

We want this public participation process to succeed. Success can be measured, at least in part, in the following ways:

- Number of written comments submitted that reflect understanding of the cleanup process and the site.
- Direct, in-person feedback about the site cleanup or public participation processes, if public meetings are held.
- Periodic updates to this plan to reflect community concerns and responses.

If we are successful, this process will increase:

- Community awareness about plans for cleanup and opportunities for public involvement.
- Public participation throughout the cleanup.
- Community understanding regarding how their input will be considered in the decision-making process.

Activities and Information Sources

Ecology Contacts

Ecology is the lead contact for questions about the cleanup in your community. The Ecology staff person identified in this section is familiar with the cleanup process and activities at the Site. For more information about public involvement or the technical aspects of the cleanup, please contact:

Isaac Standen
Ecology Site Manager
WA State Dept. of Ecology
Toxics Cleanup Program
P.O. Box 47600
Olympia, WA 98504-7600
Phone: (360) 407-6776
E-mail: ista461@ecy.wa.gov

Ecology's Webpage

Ecology has created a webpage to provide convenient access to information. Documents such as the Agreed Order, draft reports, and cleanup plans, are posted as they are issued during the investigation and cleanup process. Visitors to the webpage can find out about public comment periods and meetings; download, print, and read information; and submit comments via e-mail. The webpage also provides links to detailed information about the MTCA cleanup process. The Blaine Mini Mart Site webpage is available at the following address:

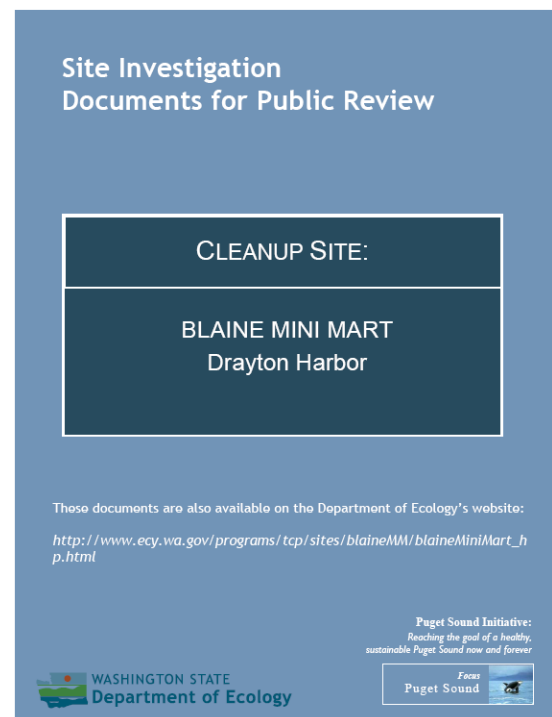
http://www.ecy.wa.gov/programs/tcp/sites/blaineMM/blaineMiniMart_hp.html

Information Centers/Document Repositories

The most comprehensive source of information about the Blaine Mini Mart Site is the information center, or document repository. Two repositories, located at the Washington State Department of Ecology Headquarters and the Blaine Public Library, provide access to the complete list of site-related documents. All Blaine Mini Mart investigation and cleanup activity reports will be kept in print at those two locations and will be available for your review. They can be requested on compact disk (CD) as well. Document repositories are updated before public comment periods to include the relevant documents for review. Documents remain at the repositories throughout the investigation and cleanup. For the Blaine Mini Mart Site, the document repositories' addresses and their hours are:

- **Blaine Public Library**
610 3rd Street
Blaine, WA 98230
Phone: (360) 332-8146
Hours:
Monday through Thursday; 10 a.m. to 8 p.m.
Friday and Saturday; 10 a.m. to 6 p.m.
- **WA Department of Ecology Headquarters**
300 Desmond Dr. SE
Lacey, WA 98503
By appointment. Please contact Carol Dorn at
(360) 407-7224 or cesg461@ecy.wa.gov.

Look for document covers much like the illustration at right.



Public Comment Periods

Public comment periods provide opportunities for you to review and comment on major documents such as the Agreed Order, draft Public Participation Plan, draft RI/FS report, and the draft CAP. The typical public comment period is 30 calendar days.

Notice of Public Comment Periods

Notices for each public comment period will be provided by local newspaper and by mail. These notices indicate the timeframe and subject of the comment period, and explain how you can submit your comments. For the Blaine Mini Mart Site, newspaper notices will be posted in The Northern Light and Bellingham Herald.

Notices are also sent by regular mail to the local community and interested parties. Members of the local community that typically receive these notices include all residential and business addresses within one-quarter mile of the site. Interested parties could include public health entities, environmental groups, and business associations.

Fact Sheets

One common format for public comment notification is the fact sheet. Like the newspaper notice, fact sheets explain the timeframe and purpose of the comment period, but also provide background and a summary of the document under review. One fact sheet has been prepared for the Blaine Mini Mart Site that explains the Agreed Order and this Public Participation Plan (See Appendix A). Future fact sheets will be prepared at key milestones in the cleanup process.

MTCA Site Register

Ecology produces an electronic newsletter called the MTCA Site Register. This semi-monthly publication provides updates of the cleanup activities occurring throughout the state, including public meeting dates, public comment periods, and cleanup-related reports. Individuals who would like to receive the MTCA Site Register can sign up three ways:

- Call (360) 407-6069
- Send an email request to ltho461@ecy.wa.gov
- Register on-line at http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html

Mailing Lists

Ecology maintains both an e-mail and regular mail distribution list throughout the cleanup process. The list is created from carrier route delineations for addresses within

one-quarter mile of the site, potentially interested parties, public meeting sign-in sheets, and requests made in person or by regular mail or e-mail. You may request to be on the mailing list by contacting Ecology's Site Manager listed earlier in this section.

Optional Public Meetings

A public meeting will be held during a comment period if requested by ten or more people, or if Ecology decides it would be useful. Public meetings provide additional opportunities to learn about the investigation or cleanup, and to enhance informed comment. If you are interested in a public meeting about the Blaine Mini Mart Site, please contact the Ecology staff listed earlier in this section.

Submitting Comments

You may submit comments by regular mail or e-mail during public comment periods to the Ecology Site Manager listed earlier in this section.

Response to Comments

Ecology will review all comments submitted during public comment periods, and will modify documents as necessary. You will receive notice by regular mail or e-mail that Ecology has received your comments, along with an explanation about how the comments were addressed.

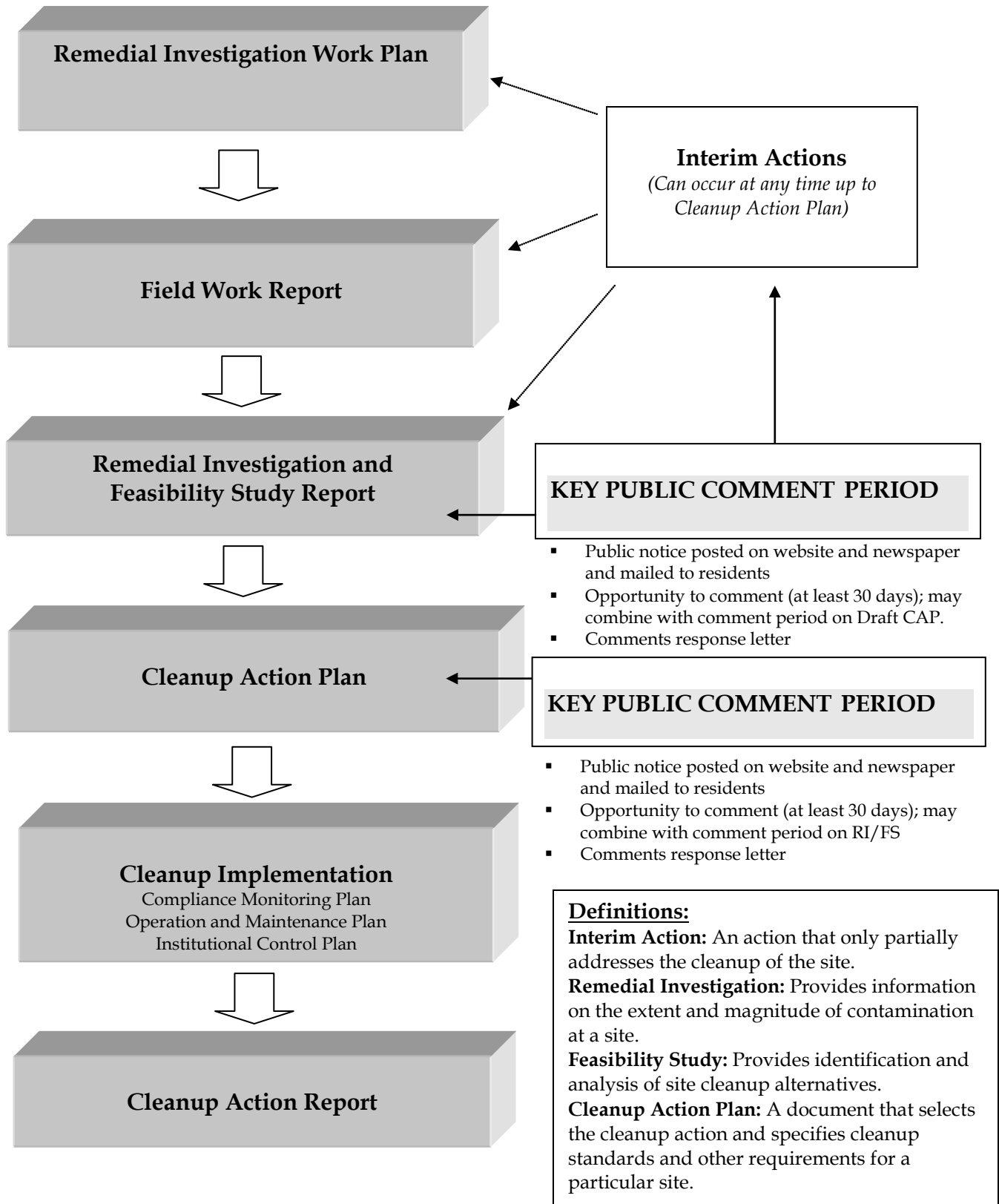
Other

Ecology and Yon Kim are committed to the public participation process and will consider additional means for delivering information and receiving comments, including combining public comment periods for other actions (such as those associated with the State Environmental Policy Act).

Public Participation Grants

You may be eligible to apply for a Public Participation Grant from Ecology to provide additional public participation activities. Those additional activities will not reduce the scope of the activities defined by this plan. Activities conducted under this plan would coordinate with the additional activities defined under the grant.

Figure 2: Washington State Cleanup Process



Glossary

Cleanup: The implementation of a cleanup action or interim action.

Cleanup Action: Any remedial action except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with MTCA cleanup requirements, including but not limited to: compliance with cleanup standards; utilizing permanent solutions to the maximum extent practicable; and including adequate monitoring to ensure the effectiveness of the cleanup action.

Cleanup Action Plan: A document that selects the cleanup action and specifies cleanup standards and other requirements for a particular site. The cleanup action plan, which follows the remedial investigation/feasibility study report, is subject to a public comment period. After completion of a comment period on the cleanup action plan, Ecology finalizes the cleanup action plan.

Cleanup Level: The concentration (or amount) of a hazardous substance in soil, water, air, or sediment that protects human health and the environment under specified exposure conditions. Cleanup levels are part of a uniform standard established in state regulations, such as MTCA.

Cleanup Process: The process for identifying, investigating, and cleaning up hazardous waste sites.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

Feasibility Study: Provides identification and analysis of site cleanup alternatives and is usually completed within a year. The entire Remedial Investigation/Feasibility Study process takes about two years and is followed by the cleanup action plan. Remedial action evaluating sufficient site information to enable the selection of a cleanup action plan.

Hazardous Site List: A list of ranked sites that require further remedial action. These sites are published in the Site Register.

Interim Action: Any remedial action that partially addresses the cleanup of a site. It is an action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance at a facility; an action that corrects a problem that may become substantially worse or cost substantially more to address if the action is delayed; an action needed to provide for completion of a site hazard assessment, state remedial investigation/feasibility study, or design of a cleanup action.

Model Toxics Control Act: Refers to Chapter 70.105D RCW. Voters approved it in November 1988. The implementing regulation is found in Chapter 173-340 WAC.

Public Notice: At a minimum, adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city or county) newspaper of largest circulation; and the opportunity for interested persons to comment.

Public Participation Plan: A plan prepared under the authority of WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

Release: Any intentional or unintentional entry of any hazardous substance into the environment, including, but not limited to, the abandonment or disposal of containers of hazardous substances.

Remedial Action: Any action or expenditure consistent with MTCA to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities of any release or threatened release of a hazardous substance, and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

Remedial Investigation: Any remedial action that provides information on the extent and magnitude of contamination at a site. This usually takes 12 to 18 months and is followed by the feasibility study. The purpose of the Remedial Investigation/Feasibility Study is to collect and develop sufficient site information to enable the selection of a cleanup action.

Appendix A:

Fact Sheet

Site Investigation Documents Available for Public Review and Comment



A PUGET SOUND INITIATIVE site

Reaching the goal of a healthy, sustainable
Puget Sound.

Ecology Wants Your Input!

The Department of Ecology is asking for your comments on a new proposed agreement to study a site on Puget Sound for cleanup. This site, Blaine Mini Mart, is one of several located on the waterfront that will be studied for cleanup under the state's Puget Sound Initiative.

Blaine Mini Mart is generally located at 2530 Peace Portal Drive on Drayton Harbor, in Blaine, Whatcom County, WA. The property is located at the intersection of Peace Portal Drive and Bell Road.

You are invited to:

- Review the Agreed Order and Public Participation Plan.
- Send your comments to Ecology. Comments will be accepted October 26 to November 30, 2009.

See the box on the right for details about where to review documents and submit comments.

Site Background

The Blaine Mini Mart Site is a gas station. Chemicals formerly used on the Site include gasoline, benzene, toluene, ethylbenzene, and xylenes. These last four compounds are often found in petroleum products, and referred to as BTEX. Monitoring in the area found these contaminants in Site groundwater.

The Site owner conducted soil and groundwater investigations on the Site and found the following contaminants in soil and/or groundwater at concentrations above Washington state cleanup

Comments Accepted

October 26 to November 30, 2009

Submit Comments and Technical Questions to:

Isaac Standen - Site Manager
WA Department of Ecology
Toxics Cleanup Program
P.O. Box 47600
Olympia, WA 98504-7600
Phone: (360) 407-6776
E-mail: ista461@ecy.wa.gov

DOCUMENT REVIEW LOCATIONS

Blaine Public Library

610 Third Street
Blaine, WA 98230
Phone: (360) 332-8146

Hours: Mon.-Thurs. 10 a.m.-8 p.m.,
Fri.-Sat. 10 a.m.-6 p.m.

WA Department of Ecology Headquarters

300 Desmond Drive SE
Lacey, WA 98503

By appointment only:
Contact Carol Dorn,
cesg461@ecy.wa.gov or
(360) 407-7224

Ecology's Toxics Cleanup Website

http://www.ecy.wa.gov/programs/tcp/sites/blaineMM/blaineMiniMart_hp.html

Facility Site ID #: 42128291

levels:

- Benzene
- Toluene
- Ethylbenzene
- Xylene
- MTBE (a gasoline additive)
- Gasoline
- Diesel
- Heavy oil-range petroleum hydrocarbons

More study is needed to fully characterize the contamination at the Blaine Mini Mart Site.

Overview of the Agreed Order

The proposed agreement, called an Agreed Order, is a legal document between Ecology and the Site owner. Former owners have not signed this document. The Agreed Order describes the studies that the Site owner agrees to perform on the Site.

The Agreed Order requires the following studies and documents be developed:

- Remedial Investigation and Feasibility Study (RI/FS). It explains the work needed to look for and analyze contamination in soil and groundwater.
- RI/FS report. It presents the results of the study and proposes alternatives for cleanup actions.
- Draft Cleanup Action Plan (CAP). It uses RI/FS information to identify a preferred cleanup action and a schedule to remediate the contamination.

The purpose of the Agreed Order is to protect human health and the environment by insuring that remedial actions will be conducted at a site

where a release of hazardous substances has occurred. It ensures that cleanup happens in a timely manner and according to Washington State's cleanup law, the Model Toxics Control Act (MTCA).

Overview of the draft Public Participation Plan

Ecology and the Site owner are committed to providing the public with timely information and meaningful opportunities to participate in the cleanup process. As part of this commitment, Ecology and Site owner agree to provide a public participation plan. This plan outlines how citizens and interested parties can learn about and provide input on the cleanup.

Your comments and ideas are needed to improve the cleanup. The public participation plan explains how Ecology will do the following:

- Notify the public when and where documents are available for review and comment.
- Notify the public about how they can become involved.
- Provide public participation opportunities.
- Consider public comments in cleanup decisions.

Why This Cleanup Matters

Protecting and restoring Puget Sound

Governor Chris Gregoire and the Washington State Legislature established the Puget Sound Initiative to protect and restore Puget Sound. Several baywide areas in the Sound have been identified as high priority cleanup areas as part of this Initiative, including: Port Gamble, Dumas Bay, Padilla and Fidalgo Bays, Port Angeles, Budd Inlet, and Port Gardner Bay.



Blaine Mini Mart

This work includes cleaning up 50-60 sites within one-half mile of the Sound. One of these is the Blaine Mini Mart Site. These cleanup actions will help to reduce pollution and restore habitat and shorelines in Puget Sound.

For more information about sites in Whatcom County, go to:

http://www.ecy.wa.gov/programs/tcp/sites/sites_information.html#W.

What Happens Next?

Once the public comment period ends, Ecology will review and consider all comments that have been received. The Agreed Order and draft public participation plan may be modified based upon your comments.

As future documents on the Site are developed, you will be notified of additional public comment periods.

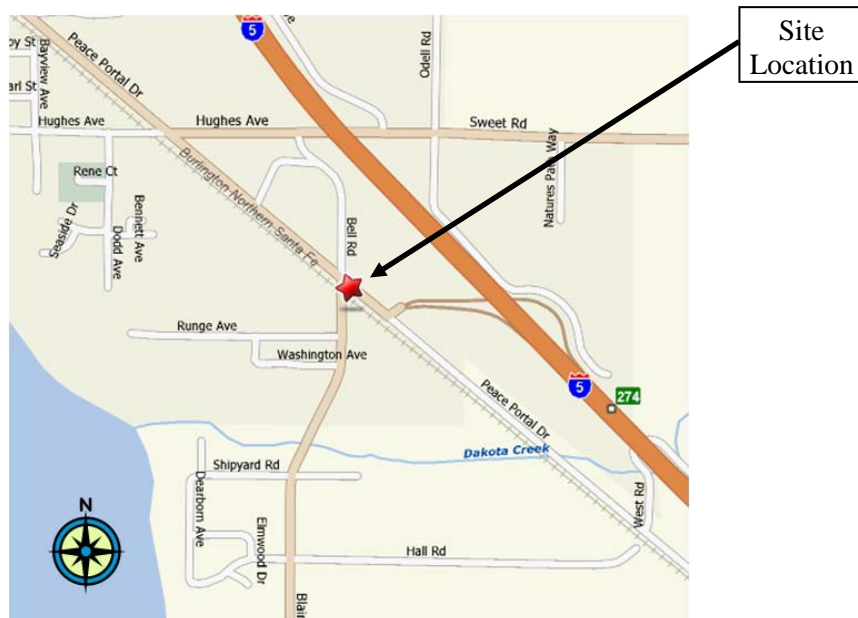
What can you do?

1. Read about the cleanup in this handout.
2. To get more detailed information, review the supporting documents at the locations listed on page one.
3. Write down your comments and questions. Send them to the Department of Ecology at the address shown on page one.

We appreciate your comments and concerns. Thank you.

For information about other Ecology public comment periods, meetings, and other events, please visit Ecology's public events calendar at: <http://apps.ecy.wa.gov/pubcalendar/calendar.asp>

The Blaine Mini Mart Site is located at 2530 Peace Portal Drive, on Drayton Harbor, Blaine, WA.
(Map Source: MapQuest 2009)





Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600



Please recycle.

Blaine Mini Mart, Blaine Whatcom County, WA

Ecology Seeks Public Comment on Draft Site Investigation Documents

**Public Comment Period:
October 26 to November 30, 2009**

Facility Site ID #: 42128291

Help with other languages and formats?

If you need this publication in an alternate format, please call the Toxics Cleanup Program at (360) 407-7170. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call (877) 833-6341.
